

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

Georgia-Pacific Corporation and
the Port of Bellingham

**FIRST AMENDMENT TO AGREED
ORDER FOR REMEDIAL
INVESTIGATION/FEASIBILITY STUDY;
PORT OF BELLINGHAM ADDED AS
SIGNATORY
NO.**

TO: Georgia-Pacific Corporation
133 Peachtree Street N.E.
P.O. Box 105605
Atlanta, GA 30348-5605

The Port of Bellingham
1801 Roeder Avenue
P.O. Box 1677
Bellingham, WA 98225-2257

I.
JURISDICTION

This amendment to Agreed Order NO. DE 95TC-N399 ("the original Order") is issued pursuant to the authority of RCW 70.105D.050(1). This amendment does not attempt to recite all of the provisions of the original Order. Provisions of the original Order not specifically addressed in this amendment remain in full force and effect.

II. **FINDINGS OF FACT**

The Department of Ecology (hereinafter “ Ecology”) makes the following Findings of Fact in addition to those Findings set forth in the original Order, without admission of such facts by the Port of Bellingham (hereinafter “Port”) or Georgia-Pacific (hereinafter “G-P”).

1. On January 20, 2005. the Port acquired property from G-P known as the log pond and as the aeration stabilization basin within the Whatcom Waterway site (hereinafter “Site”) located In the vicinity of 500 West Laurel Street, Bellingham, Washington, 98225.

2. In order to protect human health and the environment and to prevent the release or threatened release of hazardous substances G-P has been conducting a remedial investigation/feasibility study of the Site consistent with the requirements of the original Order.

III. **ECOLOGY DETERMINATIONS**

In addition to the determinations contained in the original Order, Ecology makes the following determinations:

1. The Port is a current “owner or operator” of a “facility” as defined in RCW 70.105D.020. The facility is known as the Whatcom Waterway Site.

2. G-P is a former “owner or operator” of a portion of the “facility” as defined in RCW 70.105D.020 and a “generator” as defined at RCW 70.105D.04(1)(c).

3. “Hazardous Substances” have been found at the facility as defined in

RCW70.105D.020(7) and as indicated in :

- Remedial Investigation/Feasibility Study Whatcom Waterway Site, Bellingham, WA, dated July 25, 2000, by Anchor Environmental and Hart Crowser for Georgia-Pacific west; and
- Supplemental Remedial Investigation/Feasibility Study Whatcom Waterway Site, Including the Georgia-Pacific Aerated Stabilization Basin Area, Bellingham, Washington, dated October 2004, by Anchor Environmental for Georgia-Pacific West.

4. By letter dated February 1, 2005, Ecology notified the Port of their status as a “potentially liable person” under RCW 70.105D.040 after notice and opportunity for comment.

IV. WORK TO BE PERFORMED

Based on the foregoing Facts and Determinations, it is hereby ordered that the Port, in addition to G-P, carry out the requirements of the original Order. The Port and G-P acknowledge that they are strictly, jointly and severally liable for the obligations set forth in this Agreed Order. However, in order to effectuate the work to be performed in the most efficient manner, the Port has elected to take the lead in performing certain responsibilities under this Agreed Order. Language in this Agreed Order and its attachments which reflect the Port or G-P as the party performing a task does not in any way relieve the other party of its strict, joint and several liability for the performance of all of their obligations under this Agreed Order.

V.
TERMS AND CONDITIONS OF THE ORDER

1. Definitions.

Unless otherwise specified, the definitions set forth in ch. 70.105D RCW and ch. 173-340 WAC shall control the meanings of the terms used in this amended Order.

2. Remedial Action Costs

G-P shall pay costs incurred by Ecology pursuant to oversight of this Order to the extent those costs arose on or before January 20, 2005. The Port shall pay costs incurred by Ecology pursuant to oversight of this Order to the extent those costs arose after January 20, 2005. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). The Port or G-P, as the case may be, shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a description of work performed, a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges.

The Port and G-P may invoke the Dispute Resolution process under §V, paragraph (9) of the Order if the Port or G-P disagree with Ecology's oversight cost charges. Failure to pay Ecology's uncontested costs and costs for which a final decision has been issued under the Dispute Resolution process within 90 days of

receipt of the itemized statement of costs or the date of the Dispute Resolution final decision will result in interest charges.

3. Designated Project Coordinators.

The project coordinator for Ecology is:

Ms. Lucille T. McInerney
Washington Department of Ecology, Northwest Regional Office
3190 - 160th Avenue SE
Bellevue, WA 98008-5452
phone: (425) 649-7272
e-mail: lpeb461@ecy.wa.gov

The project coordinator for G-P is:

Mr. Roger J. "Chip" Hilarides
General Manager
Georgia-Pacific West, Inc.
300 W. Laurel Street
Bellingham, WA 98225-5593
phone: (360) 647-5695
e-mail: rjhilari@gapac.com

The project coordinator for the Port is:

Mr. Michael G. Stoner
Director of Environmental Programs
Port of Bellingham
1801 Roeder Avenue
Bellingham, WA 98225-2257
phone: (360) 676-2500
e-mail: mikes@portofbelllingham.com

The project coordinator(s) shall be responsible for overseeing the implementation of this amended Order. To the maximum extent possible, communications between Ecology, the Port and G-P, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this amended Order, shall be directed through the project coordinator(s).

Should Ecology, the Port, or G-P change project coordinator(s), written notification shall be provided to Ecology, the Port or G-P at least ten (10) calendar days prior to the change.

Effective date of this Order:_____

PORT OF BELLINGHAM

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

By_____

By _____

Jim Darling

Steven M. Alexander

Executive Director

Toxics Cleanup Program Regional

Port of Bellingham

Manager -Northwest Regional Office

Date_____

Date_____